HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 4326 of 2001 (MS)
Old No. 20252 of 1994

Smt. Joginder Kaur ..... **Petitioner**

Versus

The Rent Control and Eviction Officer,
Dehradun & others ..... **Respondents**

Dated: 1.9.2004

Hon. Rajesh Tandon J.

The Writ petition has been transferred from Allahabad High Court. None appears for the parties.

I have perused the record of the case.

By the present writ petition the petitioner has challenged the order dated 26.2.1993 passed by the R.E. & E.O. Dehradun and order dated 7.4.1993 passed by the District Judge, Dehradun, rejecting the release application of the petitioner.

The R.C. & E.O. vide order dated 26.2.1993 has refused to release the accommodation in question in favour of the landlord. The landlord preferred an appeal which was dismissed by the appellate authority.

A perusal of the record shows that during release proceedings the prospective allottee respondent no.3 has also participated in the release proceedings and as such the order has been passed by the R.C. & E.O. in the complete disregard of the observations made in 1995 ARC Talib Hussain vs.

Thus the order passed by the R.C. & E.O. is against the procedure provided under U.P. Act No. XIII of 1972. Thus I have no option but to remand the case to the R.C. & E.O. for afresh decision.

The writ petition is, therefore, allowed. The orders dated 26.2.1993 and 7.4.1993 are set aside. The matter is remanded to the Rent Control and Eviction Officer, Dehradun to decide it afresh in the light of the observations made above and according to law. No order as to costs.

(Rajesh Tandon J.)

1.9.2004
*Dhyani